

From: Joe Huwaldt Family
To: Microsoft ATR
Date: 12/12/01 12:34am
Subject: Microsoft Settlement

I strongly disagree with the proposed settlement in the Microsoft Anti-Trust trial. How does it restore competition? What does it do for the hundreds of competitors who are no longer even in business because of Microsoft's illegal monopolistic behaviors? What does it do for the maligned partners let alone the customers who have been short changed again and again?

Microsoft has been found guilty of being an illegal monopoly in federal court. This guilt was affirmed in the appeals court. Microsoft is guilty. Keep that in mind. Any settlement that doesn't address their past misbehavior and that doesn't prevent it from happening again is not in the best interests of this country and is an affront to the law.

I am an aerospace engineer who has no connection to either Microsoft or any of its competitors. However, I have been forced to be one of their "customers" against my will for many years both at home and at work and have always been greatly disturbed by their blatantly illegal behavior. Never has there been a company that was more hated by its unwilling customers than Microsoft. The fact that no one will even attempt to compete with them for fear of being unfairly crushed should be proof enough that something more drastic than a slap on the wrist needs to be done.

Microsoft doesn't believe in their guilt. Their motivation for this settlement, therefore, is simply to get on with business as usual. That is to say, back to the behavior that got them before this court in the first place! Their record at keeping within the constraints that have been placed on them by the court in the past is dismal. They will NOT be constrained by behavior limitations in the future. Therefore, if something serious isn't done, they will be back before this court again before long. Let's end this now, while we have a chance.

Let's say that they do live within this settlement (which they won't) and they do give up the monopolistic behaviors described in this settlement. Microsoft loses some old monopolistic weaponry that it can use on its customers and competitors. But, so what, it has already identified a new monopolistic weapon that makes all the old ones totally obsolete anyway. Microsoft has found that weapon in .NET.

Whether people like .NET or not, they'll get it as old computers are replaced with new ones. Within three years .NET will be everywhere whether customers actually use it or not. Even if they hate it and are infuriated by it, they will be forced to use it and have it on all their computers. And that ubiquity, rather than commercial success, is what is important to Microsoft.

.NET is essentially a giant system for tracking user behavior and, as such, will become Microsoft's most valuable tactical tool. It is a system for tracking use of services, and the data from that tracking is available only to Microsoft.

.NET allows Microsoft (and ONLY Microsoft) to track where all system calls are going and what services are or are not being used. If calls are going to third-party software packages, Microsoft will know about it. With this information, Microsoft will know which software packages to ignore and which ones to destroy. With this information, Microsoft can create its own implementations of competing products and integrate them into their .NET framework, thus easily eliminating any third-party competitor.

Microsoft can also use the .NET generated market research that Microsoft gets for free, and nobody else gets at all, to change Windows to give automatic preference to Microsoft's own middleware. They can give the appearance of openness without actually being open.

These behaviors are not in any way proscribed by the proposed settlement with the DOJ, yet they virtually guarantee the continuation of Microsoft's monopoly on applications and services as long as they have an operating system monopoly. When Microsoft talks about "innovation," this is what they mean. Nothing is going to change.

I generally agree with Robert Cringely's suggested remedy which can be found at the following URL:
<http://www.pbs.org/cringely/pulpit/pulpit19991118.html>

Much of the following is a paraphrasing of Cringely's proposed remedy and I believe that this is how the court should deal with Microsoft:

1) Microsoft's operating system division must be completely separated from the rest of the company by a "Chinese Wall". There is nothing new or draconian about this. Defense contractors, such as the one I work for, have been doing this successfully for decades. Employees may not discuss projects with those outside their group, period. This will ensure that other divisions of Microsoft will have exactly the SAME access to the operating system API as competitors. Microsoft can still innovate and manage the future of its operating system, but everyone will have equal access to those innovations.

2) The only divestiture that is required of Microsoft is that they MUST spin off their programming language businesses. This is critical and levels the playing field. Especially in light of the new .NET strategy. For application development, Microsoft will be required to use someone else's compilers and languages. This forces Microsoft to provide good information to the compiler makers before it can use any improvements in its own

products. This helps requirement #1 work.

One of the strategies at the core of .NET is that Microsoft will have 100% control of all programming languages and development environments that can be used to write programs that work with .NET. This completely blocks entry to .NET services by all potential competitors. Microsoft says they are supporting a wide array of programming environments for .NET, but they are controlling all the specifications and all the implementations. If Microsoft wants to build in a special capability that only Microsoft's application developers can access, they have complete freedom to do so.

3) Microsoft must establish a fair and consistent pricing strategy for all their products. This model should insure all OEM's get the same price and terms. Upgrades should cost less than the original product. Product price increases should be governed by investment and inflation. Establish a fair and consistent product license agreement that follows established industry norms. In a sense, Microsoft has from time to time resorted to "dumping." Access and Internet Explorer are the most notable examples of this. Microsoft must be prevented from "dumping."

4) Microsoft must establish clear product maintenance and support rules. All products are to have a predetermined warranty period of 18 months to three years. Microsoft will fix all product defects and provide those fixes free of charge during the warranty period. Consumer protection provisions will be improved to provide reasonable product support assistance.

5) Microsoft must establish corporate ethical guidelines that are responsible and consistent with US industry practices. Microsoft should not be allowed to raid talent from competitors. People can freely apply to work at Microsoft, but Microsoft can not initiate the process.

6) Finally, many companies and their employees were financially damaged by Microsoft. Microsoft should pay compensation to those clearly injured by their monopolistic activities. Priority should be given to insure employees are fairly compensated. The total cost of the damages paid by Microsoft should not exceed 15 percent of their net income for the next 10 years. No punitive damages should be levied against the company.

Thank you for your time and consideration.

Ad astra,

Joe Huwaldt

CC: Doug Babst, Joe Huwaldt (at work)